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 CHASE MANHATTAN BANK U.S.A., N.A. d.b.a. CHASE  
 BANK U.S.A., N.A., and JPMORGAN CHASE & CO. and  
 AMERICAN EXPRESS TRAVEL RELATED SERVICES, INC.,  
 AMERICAN EXPRESS CENTURION BANK, AMERICAN  
 EXPRESS BANK, FSB

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

DAVID J. LEE, an individual and, on behalf of )	Case No. C-07-4599-MHP
others similarly situated, )	
Plaintiffs, )	
vs. )	<b>STATEMENT OF CHASE</b>
CAPITAL ONE BANK and CAPITAL ONE )	<b>AND AMERICAN EXPRESS</b>
SERVICES, INC., Virginia corporations, DOES )	<b>DEFENDANTS IN RESPONSE TO</b>
1 through 100, inclusive, )	<b>PLAINTIFFS' ADMINISTRATIVE</b>
Defendants. )	<b>MOTION TO CONSIDER WHETHER</b>
	<b>CASES SHOULD BE RELATED</b>

Defendants in Case No. C07-4732 MJJ, Chase Manhattan Bank U.S.A., N.A., Chase Manhattan Bank U.S.A., N.A. d.b.a. Chase Bank U.S.A., N.A. and JPMorgan Chase & Co. (the "Chase Defendants") (the "Chase Action"), and Defendants in Case No. C07-4765 CRB, American Express Travel Related Services, Inc., American Express Centurion Bank and American Express Bank, FSB (the "American Express Defendants") (the "American Express Action"), state as follows in response to Plaintiffs' Administrative Motion to Consider Whether Cases Should Be Related, filed on September 27, 2007 (but not served until September 30, 2007).<sup>1</sup>

The Chase Defendants and the American Express Defendants agree with Plaintiffs that the Chase Action and the American Express Action are **not related** to each other within the standard

<sup>1</sup> Due to Plaintiffs' late service, this Response is timely because filed within three days of service.

1 set forth in Local Rule 3-12, nor is either so related to the first-filed Case No. C-07-4599-MHP  
2 against Capital One defendants.<sup>2</sup>

3 Each of the three cases involves substantially different card agreements, and Plaintiffs  
4 present differing legal theories in all three cases. Moreover, there is no allegation that the Chase  
5 Defendants acted in concert with the American Express Defendants, or that either acted in concert  
6 with the Capital One defendants. Another major distinction is that the cards at issue in the Chase  
7 Action are issued by a national bank regulated by the Office of the Comptroller of the Currency,  
8 such that the Chase Defendants have unique defenses under the National Bank Act, 12 U.S.C.  
9 §§ 1 et seq., and regulations thereunder. By contrast, the cards issued by Capital One defendants  
10 may have been issued by state-chartered entities, and some of the cards at issue in the American  
11 Express Action may have been issued by a federal savings bank subject to the jurisdiction of the  
12 Office of Thrift Supervision. Accordingly, defenses under the Home Owners Loan Act, 12 U.S.C.  
13 §§ 1461 et seq., and regulations thereunder, may be presented in the American Express Action.

14 The Capital One, Chase and American Express Actions should not be deemed related under  
15 Local Rule 3-12.

16  
17 Dated: October 3, 2007

STROOCK & STROOCK & LAVAN LLP  
JULIA B. STRICKLAND  
STEPHEN J. NEWMAN

19 By: /s/ Stephen J. Newman  
20 Stephen J. Newman

21 Attorneys for CHASE MANHATTAN BANK  
22 U.S.A., CHASE MANHATTAN BANK U.S.A.,  
23 N.A. d.b.a. CHASE BANK U.S.A., N.A., and  
24 JPMORGAN CHASE & CO. and AMERICAN  
EXPRESS TRAVEL RELATED SERVICES,  
INC., AMERICAN EXPRESS CENTURION  
BANK, AMERICAN EXPRESS BANK, FSB

27  
28 <sup>2</sup> Naturally, the Chase Defendants and the American Express Defendants strongly dispute  
Plaintiffs' factual allegations and legal contentions.

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California, over the age of eighteen years, and not a party to the within action. My business address is: 2029 Century Park East, Los Angeles, California 90067-3086.

On October 3, 2007, I served the foregoing document(s) described as: **STATEMENT OF CHASE AND AMERICAN EXPRESS DEFENDANTS IN RESPONSE TO PLAINTIFFS' ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED**, on the interested parties in this action as follows:

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 Hale & Associates  
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☐ **(VIA U.S. MAIL)** In accordance with the regular mailing collection and processing practices of this office, with which I am readily familiar, by means of which mail is deposited with the United States Postal Service at Los Angeles, California that same day in the ordinary course of business, I deposited such sealed envelope, with postage thereon fully prepaid, for collection and mailing on this same date following ordinary business practices, addressed as set forth above.

☒ **(VIA ELECTRONIC CASE FILING)** I filed electronically the documents listed above, using the U.S. District Court, Northern District of California's electronic case filing service, on October 3, 2007. Counsel of record are registered to file electronically with this Court, and receive copies of the documents via e-mail from the Court to confirm filing.

☐ **(VIA FACSIMILE)** By causing such document to be delivered to the office of the addressee via facsimile.

I declare that I am employed in the office of a member of the bar of this court, at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed on October 3, 2007, at Los Angeles, California.

Sue Turner  
 [Type or Print Name]

/s/ Sue Turner  
 [Signature]